

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESAL PRICE  
LITIGATION

THIS DOCUMENTS RELATES TO:  
State of California, *ex rel.* Ven-A-Care v.  
Abbott Laboratories, Inc., *et al.*  
Case No. 1:03-cv-11226-PBS

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)  
) **MDL NO. 1456**

) **Master File No. 01-12257-PBS**

)  
) **(Original Central District of California**  
) **No. 03-CV-2238)**

) **Judge Patti B. Saris**  
)  
)

**BOEHRINGER INGELHEIM PHARMACEUTICALS, INC.'S MOTION TO DISMISS**  
**AND JOINDER IN DEFENDANTS' MOTION TO DISMISS THE FIRST AMENDED**  
**COMPLAINT-IN-INTERVENTION**

Defendant Boehringer Ingelheim Pharmaceuticals, Inc. ("BIPI"), which was served with the First Amended Complaint-In-Intervention in this action on January 23, 2006, hereby respectfully moves to dismiss the First Amended Complaint-In-Intervention pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6). In support of its motion, BIPI adopts and hereby joins in the Defendant's Motion To Dismiss Plaintiffs' First Amended Complaint-In-Intervention and the Memorandum of Law in Support thereof, filed on January 17, 2006.

Respectfully submitted,

Dated: February 13, 2006

/s/ Lee M. Holland  
Brent L. Caslin (S.B.N. 198562)  
Glen G. Mastroberte (S.B.N. 224721)  
KIRKLAND & ELLIS LLP  
777 South Figueroa Street, Suite 3700  
Los Angeles, California 90017  
Telephone: (213) 680-8400  
Facsimile: (213) 680-8500

Helen E. Witt, P.C.  
Anne M. Sidrys, P.C.  
KIRKLAND & ELLIS LLP  
200 E. Randolph Drive  
Chicago, Illinois 60601-6636  
Telephone: (312) 861-2000  
Facsimile: (312) 861-2200

John W. Steinmetz, Esq.  
Lee M. Holland, Esq.  
ROBINSON & COLE LLP  
One Boston Place  
Boston, Massachusetts 02108  
Telephone: (617) 557-5900  
Facsimile: (617) 557-5999

***Attorneys for Defendant:***  
***BOEHRINGER INGELHEIM***  
***PHARMACEUTICALS, INC.***

**CERTIFICATE OF SERVICE**

I, Lee M. Holland, hereby certify that on February 13, 2006 I caused a true and correct copy of the foregoing, **Boehringer Ingelheim Pharmaceuticals, Inc.'s Motion to Dismiss And Joinder in Defendants' Motion to Dismiss First Amended Complaint-In-Intervention**, to be served on all counsel of record in accordance with the Court's Case Management Order No. 2.

Dated: February 13, 2006

/s/ Lee M. Holland  
Lee M. Holland, Esq.